

Information Summary and Recommendations

Acupuncturists Sunrise Review

September 1993

Licensing and Certification

Information Summary and Recommendations

Acupuncturists Sunrise Review

September 1993



Information Summary and Recommendations

Acupuncturists Sunrise Review

September 1993

For more information or
additional copies of this report contact:

Office of Health Services Development
1112 SE Quince Street
PO Box 47851
Olympia Washington 98504-7851

206-753-3234
SCAN 234-3234
FAX 664-0398

Bruce A. Miyahara
Secretary of Health

Legislative Intent

It is the Legislature's intent to permit all qualified individuals to enter a health care profession. If there is an overwhelming need for the state to protect the public, then entry may be restricted. Where such a need to restrict entry and protect the public is identified, the regulation adopted should be set at the least restrictive level.

The Sunrise Act, RCW 18.120.010, states that a health care profession should be regulated only when:

- ☛ Unregulated practice can clearly harm or endanger the health, safety or welfare of the public and the potential for harm is easily recognizable and not remote or dependent upon tenuous argument;
- ☛ The public can reasonably benefit from an assurance of initial and continuing professional ability; and
- ☛ The public cannot be protected by other more cost effective means.

There are three types of credentialing:

- ☛ *Registration.* A process by which the state maintains an official roster of names and addresses of the practitioners in a given profession. The roster contains the location, nature and operation of the health care activity practiced and, if required, a description of the service provided. A registrant could be subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
- ☛ *Certification.* A voluntary process by which the state grants recognition to an individual who has met certain qualifications. Non-certified persons may perform the same tasks, but may not use "certified" in the title. A certified person is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.
- ☛ *Licensure.* A method of regulation by which the state grants permission to engage in a health care profession only to persons who meet predetermined qualifications. Licensure protects the scope of practice and the title. A licensee is subject to the Uniform Disciplinary Act, Chapter 18.130 RCW.

Overview of Proceedings

The Department of Health notified the applicant group, all professional associations and board and committee chairs and staff of the Sunrise Review. Meetings and discussions were held and documents circulated to all interested parties.

Regulatory agencies in all other states were requested to provide sunrise reviews, regulatory standards, or other information which would be useful in evaluating the proposal to increase the level of regulation for acupuncturists. A literature review was conducted. Staff have reviewed all submitted information and asked for feedback from interested parties.

A public hearing was conducted in Olympia. The hearing panel included department and State Board of Health staff. Persons were allowed to give time limited presentations. A general discussion and response period followed the hearing as well as an additional ten-day written comment period.

Following the public hearing and additional written comments, a recommendation was made based on all information received and in consultation with the public hearing panel. The applicant group and other interested parties were briefed on the draft recommendations. The proposed final draft will be reviewed and approved by the Licensing and Certification Assistant Secretary and Department Secretary. The final report was transmitted to the Legislature via the Office of Financial Management.

Executive Summary

The legislature has asked the department to review House Bill 1332, which would change the statute to require "licensure" of acupuncturists and specifically prohibit anyone not licensed from practicing, except for those whose scope of practice allows, regardless of title used. No other substantive changes to current statute are proposed in HB 1332.

Participants in the study included: the Acupuncture Association of Washington, the Washington State Medical Association, the State Board of Health, and Department of Health staff.

The department has the following recommendations: (1) applicant's proposal to change the statute to read "license" instead of "certify" should be accepted; (2) the Acupuncture Advisory Board should develop guidelines for other health professionals to determine training levels required to be proficient in the practice of acupuncture; (3) two public members (for a total of three) should be added to the Advisory Committee; and (4) technical changes should be made. If the legislature decides not to adopt the applicant's proposal, the department recommends that items (2) through (4) be adopted by the legislature.

Current Regulation

State of Washington statute currently calls for certification of acupuncturists. One unique characteristic of this certification is the prohibition against anyone using the term "acupuncturist" as well as "certified acupuncturist" without being certified, thus limiting practitioners who are not certified. The statute also states that no person may "hold themselves out to the public" as an acupuncturist without being certified. This form of "mandatory certification" is unusual.

By virtue of the Medical Practice Act, nurses, physicians, and dentists (whose scopes of practice allow penetration of tissue) may practice acupuncture without certification as an acupuncturist.

The current regulatory scheme was put into effect after a 1986 Sunrise report from the State Health Coordinating Council (SHCC). That report recommended the certification process now in statute. At that time, only acupuncture physicians' assistants were regulated, and the argument during the sunrise review was that this approach limited access to alternative, lower cost treatments.

A Sunset review of the acupuncture certification program was to be conducted in 1991. The profession prepared documents in response to questions from the legislature, but no formal study was completed. The legislature repealed the sunset review and termination provisions.

Proposal for Sunrise Review

The legislature has asked the department to review House Bill 1332, which would change the statute to require "licensure" of acupuncturists and specifically prohibit anyone not licensed from practicing, except for those whose scope of practice allows, regardless of title used. No other substantive changes to current statute are proposed in HB 1332.

Summary of Information Collected/Submitted

Department staff reviewed the information received during the review process. Some was solicited from interested parties; other information was provided to the department without being solicited. This "Information Summary" section provides the department's paraphrasing of all such information. It does not reflect the department's findings, which are found in a later section of this report.

The heading in *italics* above the various paragraphs indicates the source of the information provided to the department.

The section is divided into three parts which correspond to the three main criteria given by the legislature to determine if a profession should be regulated by the state and if so, to what extent.

Sunset Reviews

Colorado (1991): change from registration to licensure, with exemptions for physician "extenders" and students.

Hawaii (1984): continued licensing with student exemptions and improvements to the examination process.

Oregon (1984): continued regulation as part of naturopathic medicine statute.

Virginia (1989): continue to limit to physicians until more scientific evidence is presented.

The Nature of Potential Harm to the Public:

Applicant

The proposed change is basically a "housekeeping" measure. The public, practitioners, and regulatory agencies would benefit substantially from clarifying whether acupuncture were a "certified" or "licensed" profession. The current statute is mandatory certification, which amounts to licensure for all practical purposes.

It "is unknown how many people are practicing acupuncture without appropriate certificates/licenses. There is considerable anecdotal evidence of several people practicing acupuncture without appropriate certificates/licenses." Since 1987, there have been 23 complaints to the state about acupuncture, 8 of which involved complaints of practice without a license.

Risk to the public in the performance of acupuncture treatment can occur through the spread of infectious disease by using unsterilized needles and through accidental injury through puncture of an organ, particularly the lung. In response, the National Commission for the Certification of Acupuncturists (NCCA) developed the Clean Needle Technique (CNT). Completion of a CNT course is required for national association as well as state of Washington certification.

In discussing accidental injury, "acupuncture is an extremely safe procedure when performed by a trained individual and has a remarkably low record of accidents."

The CNT course also covers this subject. Applicant further states that "there has been no record of injury from a certified acupuncturist." A case in Washington state of a medical doctor who punctured a lung during an acupuncture procedure was reported by the applicant.

Department of Health Literature Search

Generally, research articles show infrequent but dangerous risks of acupuncture.

One case of fatal, non-A, non-B hepatitis was reported a few years ago, with symptoms appearing seven weeks after acupuncture. An inadequately sterilized needle was suspected as the transmission vehicle. (American Journal of Medicine)

In a 1988 Centers for Disease Control Survey, 1.5% (or 2 patients) of AIDS cases were attributed to acupuncture, although other possible transmission sources, other than the most common ones for AIDS, were not completely ruled out.

In 1989, a 17 year old patient in France was thought to have contracted AIDS through acupuncture treatment received for tendinitis. The patient denied behavior which would have exposed him to more likely transmission sources; the researchers believe acupuncture was responsible. They conclude that the "incidence of HIV transmission by acupuncture is very low" and that unsterilized needles lead to this particular case. In fact, "when acupuncture is performed with adequately sterilized needles, it poses no risk of HIV infection." (New England Journal of Medicine, Vol. 320, No. 4)

Benefit to the Public:

Applicant

The change to licensure would minimize the risk to the public by clarifying the confusion over whether compliance with the law is voluntary or mandatory. The requested change would not infringe on those whose scope of practice currently allows acupuncture. Licensure would oblige practitioners to prove their qualifications.

The publicity generated and comments elicited during the Surnise and legislative process will help uncover problems. A licensure act will warn those practicing acupuncture without a license.

Also, the increase an interest among the American public toward "alternative" treatments means the public's perception and understanding of requirements for acupuncture is essential.

Department of Health Literature Search

A health care practitioner not properly prepared to provide acupuncture services can cause serious problems. For example, one acupuncturist in Rhode Island in 1984 infected 25 of 316 patients with hepatitis B due to contaminated needles. The "attack rate" for the hepatitis increased dramatically with an increase in the number of needles used on a patient (from 9% for a total of 150 needles during entire treatment to 33% for 450 needles). (American Journal of Epidemiology, Vol. 127, No. 3)

The public would benefit from proper use of acupuncture because AIDS patients are increasingly using such treatment for pain associated with that disease and, therefore, the chance for patient to provider contamination is increasing. (American Journal of Medicine, Vol. 87)

Other Means of Regulation:

Applicant

The NCCA has developed a code of ethics, which every certified acupuncturist in Washington must agree to and sign as part of NCCA certification. Only within the last two years has NCCA certification become mandatory, so only those certified recently are, for certain, meeting this requirement. AAW is developing a complaint form and is working with the Acupuncture Advisory Committee of the department of health on procedures for complaint resolution.

Cost to the State and to Members of Profession

Applicant

No change is proposed that would increase costs of regulation. Clarification of the law could lead to regulatory efficiencies.

Findings

1. Twenty-three states and the District of Columbia regulate acupuncturists. Twelve of those allow independent practice. There are approximately 5,000 acupuncturists nationwide, with 140 certified in Washington state.
2. There have only been eight complaints made to the state of Washington between 1987 and 1993 against persons practicing acupuncture without conforming to the requirements in the state statute.

3. Applicant is not proposing any change to any health care professional's scope of practice.
4. There seems to be no scenario under which someone could be practicing acupuncture without being certified, and therefore changing the credential name to "license" would not have any limiting effect on practitioners.
5. Evidence of public harm and even potential harm being done is tenuous. Applicant states that "there has been no track record of injury from certified acupuncturists." It could be argued that the "mandatory certification" process is responsible for this result.
6. According to the legislative file in the state Archives, legislative intent during revisions of RCW 18.06 in 1987 seems to be to provide licensing, but the specific language was changed to "certify" without further substantive changes to the text so as to allow for the unusual "mandatory certification" program.
7. The profession has a good national certification system in place, and a good communications network for advising providers of any changes in the credentialing program. In addition, the Association has committed to an effort to contact all providers, not just Association members, of changes.

Recommendations

1. Applicant's proposal to change the statute to read "license" instead of "certify" should be accepted with the following changes:

- A. Section 5, page 4, lines 26-31 should be deleted.

(1) No one may hold themselves out to the public as an acupuncturist or licensed acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or licensed acupuncturists unless licensed as provided for in this chapter.

This language has been a primary source of confusion. With the addition of paragraph (2) on lines 32 and 33 limiting the practice of acupuncture to those licensed (or otherwise exempted), this language is not needed and only serves to further confuse the issue.

Rationale: adequately trained acupuncturists provide safe, alternative treatments. Strictly voluntary certification could result in a deterioration of the relatively safe conditions existing today. As the practice of acupuncture is currently substantially restricted by the current statute to the point of being de facto licensure, the changes made by HB 1332 would not further restrict access by professionals to the field of acupuncture.

- B. Section 6, page 5, paragraph (1) should be amended.

Nothing in this chapter shall be construed to prohibit or restrict: (1) The practice by an individual licensed under the laws of this state and performing services within such individual's authorized scope of practice; provided, however, that the Acupuncture Advisory Committee shall develop guidelines for other professions to assist those professions in determining the level of training sufficient to allow for the provision of safe acupuncture services;

Other professionals whose scopes of practice would allow them to be exempt from acupuncture licensure should be encouraged to receive training sufficient to provide safe acupuncture services. In England, the Acupuncture Medical Society holds regular scientific meetings, encourages research, publishes a journal and offers training courses to medical practitioners to be sure they are suitably trained to practice acupuncture.

Rationale: the most serious problems identified, other than the use of clean needles, is potential physical harm to a patient from improper insertion of a needle by a health professional other than an acupuncturist. Licensed health care professionals exempt from acupuncture licensure may be well versed in the necessity of clean needles, but may not be as familiar with insertion points and techniques. The guidelines developed by the Advisory Committee would go a long way toward assisting other professionals to be better prepared to offer acupuncture services to their patients.

2. Add public members to the Advisory Committee

RCW 18.06.170, which is amended in the proposed legislation in Sec. 13, should be amended to add two public members, for a total of three, to the acupuncture advisory committee.

Rationale: there is a general interest in the legislature and in the department to expand health professionals committee and board public membership. This interest is predicated on the belief that more public involvement not only improves the outcomes of board and committee actions, but improves communication between the professions and the public.

3. Technical changes to the legislation are recommended:

- A. Page 4, line 16 after the word therapy, the word in parentheses should be "aquapuncture." There was an apparent typographical error. The correct terminology is aquapuncture in this instance.
- B. Page 6, line 27, line 33 and line 35, the word "registration" should be stricken to avoid that the acupuncture program is anything other than licensing.

Regulation In Other States (As reported to the Department of Health)

State	Status of Regulation
AR, ID, KT, MI, MN, NE, ND, SD, WV, WY	None
AK, CA, HI, OR, MA, ME, NM, NY, NV, RI, TX, UT, VA, WA DC, Guam	Licensed
FL, LA, MT, NJ, WI	Certified
CO, IA, MD, PA, VT	Registered
GA, IL, IN, NH, TN	Included in practice of MD
CT	Included in practice of MD, PA, Nurse, Podiatrist
KS, MO	Included in practice of MD, Osteopath, Chiropractor
SC	Under supervision/referral of MD or Dentist
Saipan, MP	Licensed as Clinical Psychologist

Literature Review

- Alexis, John, and Jack Lubin, "Acupuncture and Non-A, Non-B Hepatitis," The American Journal of Medicine.
- Chen, Allen, "An Introduction to Sequential Electric Acupuncture (SEA) in the Treatment of Stress Related Physical and Mental Disorders," Acupuncture & Electro-Therapeutics Res., Int.J., Vol. 17, pp. 273-283, 1992.
- Cheng, Tsung O., "Acupuncture and Acquired Immunodeficiency Syndrome," The American Journal of Medicine, Vol. 87, October 1989.
- Gross, Stanley J., Of Foxes and Hen Houses: Licensing and the Health Professions, Greenwood Press, Connecticut, 1984.
- Jackson, Laurie, "Acupuncture: An Important Treatment Option," Nurse Practitioner, Vol. 13, No. 9, September 1988.
- Keane, James R., Jamshid Ahmadi, Peter Gruen, "Spinal Epidural Hematoma with Subarachnoid Hemorrhage Caused by Acupuncture," American Journal of Neuroradiology, Vol. 14, March-April 1993, pp. 365-66.
- Moyer, John H., "The Medical Practice Act of 1985," Pennsylvania Medicine, January 1988.
- Myerson, John, "Letter to the Editor," The New England Journal of Medicine, Vol. 321, No. 21, November 1989.
- Phoon, Wai-On, Ngan-Phoon Fong, James Lee, "History of Blood Transfusion, Tattooing, Acupuncture and Risk of Hepatitis B Surface Antigenaemia Among Chinese Men in Singapore," American Journal of Public Health, Vol. 78, No. 8, August 1988.
- Stulbaum, Arthur W., "The Scientific Rationale, Clinical Practice, and Future of Acupuncture in the United States," Acupuncture & Electro-Therapeutics Res., Int.J., Vol. 17, pp. 229-231, 1992.
- "Acupuncture: The Position Paper of the National Council Against Health Fraud," The Clinical Journal of Pain, Vol. 7, No. 2, 1991.
- "Acupuncture Treatment for Industry," Occupational Health, 1991.
- "Acute HIV Infection After Acupuncture Treatments," The New England Journal of Medicine, Vol. 320, No. 4, January 1989.
- "Investigations of AIDS Patients with No Previously Identified Risk Factors," Journal of the American Medical Association, Vol. 259, No. 9, March 1988.

"A Large Outbreak of Acupuncture-Associated Hepatitis B," American Journal of Epidemiology, Vol. 127, No. 3, 1988.

"MI: Physician Referral to Acupuncturist: Nurse's Illegal Practice of Medicine," Regan Report on Nursing Law, 1992.

"A Proposed Standard International Acupuncture Nomenclature: Report of a Who Scientific Group," World Health Organization Geneva.

"Unconventional Medicine in the United States," The New England Journal of Medicine, Vol. 328, No. 4, January 1993.

State Reports

State of Colorado, Department of Regulatory Agencies, Sunset Review: Acupuncturist Registration, 1991.

State of Florida, The Senate Economic, Community, and Consumer Affairs Committee, A Review of Chapter 389, Florida Statutes Relating to Acupuncture and Chapter 389, Florida Statutes Relating to Acupuncture Clinics, January 1986.

State of Hawaii, Legislative Auditor of the State of Hawaii, Sunset Evaluation Report: Acupuncture, Chapter 436D, Hawaii Revised Statutes, A Report to the Governor and the Legislature of the State of Hawaii, No. 84-6, January 1984.

State of Pennsylvania, Policy Development & Research Office, Acupuncture Licensing in Pennsylvania.

State of Virginia, Board of Health Professions of the Department of Health Professions, Review of the Regulation of Acupuncture in Virginia, A Report to the Governor and the General Assembly of Virginia, 1989.

Participant List

Steve Lindstrom, Acupuncture Association of Washington
Karen Boyd, Acupuncture Association of Washington
Melanie Stewart, Acupuncture Association of Washington
Lionell Covert, Acupuncture Association of Washington
Carl Nelson, Washington State Medical Association
Diane Seagroves, Olympia
John A. Clark, President, Washington Counselors Association
William T. Jarvis, President, NCAHF
Representative Dennis Dellwo
Bennie Barnes, Staff Analyst, Senate Health Care Committee
Senator Phil Talmadge
Julia Porter, Association of Washington Business
Arlene Robertson, Health Professions Quality Assurance, Department of Health
Deenie Dudley, HIV/AIDS, Department of Health
Jianxin Huong, Northwest Institute of Acupuncture & Oriental Medicine

Review Panel

Nick Federici
State Board of Health

Deenie Dudley, HIV/AIDS
Department of Health

Steve Boruchowitz, Health Services Development
Department of Health

Frank Chestnut, Office of the Secretary
Department of Health

Arlene Robertson, Health Professions Quality Assurance
Department of Health

HOUSE BILL 1332

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Locke, Ballard, Edmondson, Casada, Franklin, King, Johanson, Mielke, Shin, Brough, R. Johnson, Appelwick, Morris, Lisk, Wang, Scott, Springer, Dyer, Jones, R. Meyers, Dorn, L. Johnson and Wineberry

Read first time 01/25/93. Referred to Committee on Health Care.

1 AN ACT Relating to acupuncture; and amending RCW 4.24.240,
2 4.24.290, 7.70.020, 18.06.010, 18.06.020, 18.06.045, 18.06.080,
3 18.06.090, 18.06.110, 18.06.120, 18.06.130, 18.06.140, 18.06.170,
4 18.06.190, 18.06.200, 18.120.020, and 18.130.040.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 Sec. 1. RCW 4.24.240 and 1985 c 326 s 25 are each amended to read
7 as follows:

8 (1)(a) A person licensed by this state to provide health care or
9 related services, including, but not limited to, a ~~((certified))~~
10 licensed acupuncturist, a physician, osteopathic physician, dentist,
11 nurse, optometrist, ~~((pediatrist))~~ podiatric physician and surgeon,
12 chiropractor, physical therapist, psychologist, pharmacist, optician,
13 physician's assistant, osteopathic physician's assistant, nurse
14 practitioner, including, in the event such person is deceased, his or
15 her estate or personal representative;

16 (b) An employee or agent of a person described in subparagraph (a)
17 of this subsection, acting in the course and scope of his or her
18 employment, including, in the event such employee or agent is deceased,
19 his or her estate or personal representative; or

(c) An entity, whether or not incorporated, facility, or institution employing one or more persons described in subparagraph (a) of this subsection, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, trustee, employee, or agent thereof acting in the course and scope of his or her employment, including in the event such officer, director, employee, or agent is deceased, his or her estate or personal representative;

shall be immune from civil action for damages arising out of the good faith performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated.

(2) No member, employee, staff person, or investigator of a professional review committee shall be liable in a civil action as a result of acts or omissions made in good faith on behalf of the committee; nor shall any person be so liable for filing charges with or supplying information or testimony in good faith to any professional review committee; nor shall a member, employee, staff person, or investigator of a professional society, of a professional examining or licensing board, of a professional disciplinary board, of a governing board of any institution, or of any employer of professionals be so liable for good faith acts or omissions made in full or partial reliance on recommendations or decisions of a professional review committee or examining board.

Sec. 2. RCW 4.24.290 and 1985 c 326 s 26 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an acupuncturist (~~((certified))~~) licensed under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a (~~((pediatrist))~~) podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under chapters 18.78 or 18.88 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of

1 skill, care, and learning possessed at that time by other persons in
2 the same profession, and that as a proximate result of such failure the
3 plaintiff suffered damages, but in no event shall the provisions of
4 this section apply to an action based on the failure to obtain the
5 informed consent of a patient.

6 **Sec. 3.** RCW 7.70.020 and 1985 c 326 s 27 are each amended to read
7 as follows:

8 As used in this chapter "health care provider" means either:

9 (1) A person licensed by this state to provide health care or
10 related services, including, but not limited to, a ((~~certified~~))
11 licensed acupuncturist, a physician, osteopathic physician, dentist,
12 nurse, optometrist, ((~~pediatrist~~)) podiatric physician and surgeon,
13 chiropractor, physical therapist, psychologist, pharmacist, optician,
14 physician's assistant, midwife, osteopathic physician's assistant,
15 nurse practitioner, or physician's trained mobile intensive care
16 paramedic, including, in the event such person is deceased, his or her
17 estate or personal representative;

18 (2) An employee or agent of a person described in part (1) above,
19 acting in the course and scope of his employment, including, in the
20 event such employee or agent is deceased, his or her estate or personal
21 representative; or

22 (3) An entity, whether or not incorporated, facility, or
23 institution employing one or more persons described in part (1) above,
24 including, but not limited to, a hospital, clinic, health maintenance
25 organization, or nursing home; or an officer, director, employee, or
26 agent thereof acting in the course and scope of his or her employment,
27 including in the event such officer, director, employee, or agent is
28 deceased, his or her estate or personal representative.

29 **Sec. 4.** RCW 18.06.010 and 1992 c 110 s 1 are each amended to read
30 as follows:

31 The following terms in this chapter shall have the meanings set
32 forth in this section unless the context clearly indicates otherwise:

33 (1) "Acupuncture" means a health care service based on ((~~a~~)
34 ~~traditional~~) an Oriental system of medical theory utilizing Oriental
35 diagnosis and treatment to promote health and treat organic or
36 functional disorders by treating specific acupuncture points or

meridians. Acupuncture includes (~~but is not necessarily limited to~~) the following techniques:

(a) Use of acupuncture needles to stimulate acupuncture points and meridians;

(b) Use of electrical, mechanical, or magnetic devices to stimulate acupuncture points and meridians;

(c) Moxibustion;

(d) Acupressure;

(e) Cupping;

(f) Dermal friction technique;

(g) Infra-red;

(h) Sonopuncture;

(i) Laserpuncture;

(j) (~~Dietary advice based on traditional Oriental medical theory, and~~

~~(k))~~) Point injection therapy (acupuncture); and

(k) Dietary advice based on Oriental medical theory provided in conjunction with techniques under (a) through (j) of this subsection.

(2) "Acupuncturist" means a person (~~certified~~) licensed under this chapter.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health or the secretary's designee.

Sec. 5. RCW 18.06.020 and 1991 c 3 s 5 are each amended to read as follows:

(1) No one may hold themselves out to the public as an acupuncturist or (~~certified~~) licensed acupuncturist or any derivative thereof which is intended to or is likely to lead the public to believe such a person is an acupuncturist or (~~certified~~) licensed acupuncturist unless (~~certified~~) licensed as provided for in this chapter.

(2) A person may not practice acupuncture if the person is not licensed under this chapter.

(3) No one may use any configuration of letters after their name (including Ac.) which indicates a degree or formal training in acupuncture unless (~~certified~~) licensed as provided for in this chapter.

1 (~~(+3+)~~) (4) The secretary may by rule proscribe or regulate
2 advertising and other forms of patient solicitation which are likely to
3 mislead or deceive the public as to whether someone is (~~(certified)~~)
4 licensed under this chapter.

5 Sec. 6. RCW 18.06.045 and 1992 c 110 s 2 are each amended to read
6 as follows:

7 Nothing in this chapter shall be construed to prohibit or restrict:

8 (1) The practice (~~((by an individual))~~) by an individual
9 licensed(~~(, certified, or registered)~~) under the laws of this state and
10 performing services within such individual's authorized scope of
11 practice;

12 (2) The practice by an individual employed by the government of the
13 United States while engaged in the performance of duties prescribed by
14 the laws of the United States;

15 (3) The practice by a person who is a regular student in an
16 educational program approved by the secretary, and whose performance of
17 services is pursuant to a regular course of instruction or assignments
18 from an instructor and under the general supervision of the instructor;

19 (4) The practice of acupuncture by any person (~~(licensed or~~
20 ~~certified)~~) credentialed to perform acupuncture in any other
21 jurisdiction where such person is doing so in the course of regular
22 instruction of a school of acupuncture approved by the secretary or in
23 an educational seminar by a professional organization of acupuncture,
24 provided that in the latter case, the practice is supervised directly
25 by a person (~~(certified pursuant to)~~) licensed under this chapter or
26 licensed under any other healing art whose scope of practice includes
27 acupuncture.

28 Sec. 7. RCW 18.06.080 and 1992 c 110 s 3 are each amended to read
29 as follows:

30 (1) The secretary is hereby authorized and empowered to execute the
31 provisions of this chapter and shall offer examinations in acupuncture
32 at least twice a year at such times and places as the secretary may
33 select. The examination shall be a written examination and may include
34 a practical examination.

35 (2) The secretary shall develop or approve a (~~(certification)~~)
36 licensure examination in the subjects that the secretary determines are
37 within the scope of and commensurate with the work performed by

1 ((~~certified~~)) licensed acupuncturists and shall include but not
2 necessarily be limited to anatomy, physiology, microbiology,
3 biochemistry, pathology, hygiene, and acupuncture. All application
4 papers shall be deposited with the secretary and there retained for at
5 least one year, when they may be destroyed.

6 (3) If the examination is successfully passed, the secretary shall
7 confer on such candidate the title of ((~~Certified~~)) Licensed
8 Acupuncturist.

9 **Sec. 8.** RCW 18.06.090 and 1985 c 326 s 9 are each amended to read
10 as follows:

11 Before ((~~certification~~)) licensure, each applicant shall
12 demonstrate sufficient fluency in reading, speaking, and understanding
13 the English language to enable the applicant to communicate with other
14 health care providers and patients concerning health care problems and
15 treatment.

16 **Sec. 9.** RCW 18.06.110 and 1991 c 3 s 11 are each amended to read
17 as follows:

18 The uniform disciplinary act, chapter 18.130 RCW, governs
19 uncertified practice, the issuance and denial of ((~~certificates~~))
20 licenses, and the disciplining of ((~~certificate~~)) license holders under
21 this chapter. The secretary shall be the disciplining authority under
22 this chapter.

23 **Sec. 10.** RCW 18.06.120 and 1992 c 110 s 4 are each amended to read
24 as follows:

25 (1) Every person ((~~certified~~)) licensed in acupuncture shall
26 register with the secretary annually and pay an annual renewal
27 registration fee determined by the secretary as provided in RCW
28 43.70.250 on or before the ((~~certificate~~)) license holder's birth
29 anniversary date. The ((~~certificate~~)) license of the person shall be
30 renewed for a period of one year or longer in the discretion of the
31 secretary. A person whose practice is exclusively out-of-state or who
32 is on sabbatical shall be granted an inactive ((~~certification~~))
33 licensure status and pay a reduced registration fee. The reduced fee
34 shall be set by the secretary under RCW 43.70.250.

35 (2) Any failure to register and pay the annual renewal registration
36 fee shall render the ((~~certificate~~)) license invalid. The

1 ((~~certificate~~)) license shall be reinstated upon: (a) Written
2 application to the secretary; (b) payment to the state of a penalty fee
3 determined by the secretary as provided in RCW 43.70.250; and (c)
4 payment to the state of all delinquent annual ((~~certificate~~)) license
5 renewal fees.

6 (3) Any person who fails to renew his or her ((~~certification~~))
7 license for a period of three years shall not be entitled to renew
8 ((~~such certification~~)) the licensure under this section. Such person,
9 in order to obtain a ((~~certification~~)) licensure in acupuncture in this
10 state, shall file a new application under this chapter, along with the
11 required fee, and shall meet examination or continuing education
12 requirements as the secretary, by rule, provides.

13 (4) All fees collected under this section and RCW 18.06.070 shall
14 be credited to the health professions account as required under RCW
15 43.70.320.

16 **Sec. 11.** RCW 18.06.130 and 1991 c 3 s 13 are each amended to read
17 as follows:

18 The secretary shall develop a form to be used by an acupuncturist
19 to inform the patient of the acupuncturist's scope of practice and
20 qualifications. All ((~~certificate~~)) license holders shall bring the
21 form to the attention of the patients in whatever manner the secretary,
22 by rule, provides.

23 **Sec. 12.** RCW 18.06.140 and 1991 c 3 s 14 are each amended to read
24 as follows:

25 Every ((~~certified~~)) licensed acupuncturist shall develop a written
26 plan for consultation, emergency transfer, and referral to other health
27 care practitioners operating within the scope of their authorized
28 practices. The written plan shall be submitted with the initial
29 application for ((~~certification~~)) licensure as well as annually
30 thereafter with the ((~~certificate~~)) license renewal fee to the
31 department. The department may withhold ((~~certification~~)) licensure or
32 renewal of ((~~certification~~)) licensure if the plan fails to meet the
33 standards contained in rules ((~~promulgated~~)) adopted by the secretary.

34 When the acupuncturist sees patients with potentially serious
35 disorders such as cardiac conditions, acute abdominal symptoms, and
36 such other conditions, the acupuncturist shall immediately request a
37 consultation or recent written diagnosis from a physician licensed

1 under chapter 18.71 or 18.57 RCW. In the event that the patient with
2 the disorder refuses to authorize such consultation or provide a recent
3 diagnosis from such physician, acupuncture treatment shall not be
4 continued.

5 **Sec. 13.** RCW 18.06.170 and 1991 c 3 s 16 are each amended to read
6 as follows:

7 (1) The acupuncture advisory committee is created. The committee
8 shall be composed of one physician licensed under chapter 18.71 or
9 18.57 RCW, three acupuncturists (~~((certified))~~) licensed under this
10 chapter, and one public member, who does not have any financial
11 interest in the rendering of health services.

12 (2) The secretary shall appoint members to staggered terms so as to
13 provide continuity in membership. Members shall serve at the pleasure
14 of the secretary but may not serve more than five years total. Members
15 of the committee shall be reimbursed for travel expenses as provided in
16 RCW 43.03.050 and 43.03.060.

17 (3) Each member of the committee shall receive fifty dollars for
18 each day the member attends an official meeting of the group or
19 performs statutorily prescribed duties approved by the secretary.

20 (4) The committee shall meet only on the request of the secretary
21 and consider only those matters referred to it by the secretary.

22 **Sec. 14.** RCW 18.06.190 and 1991 c 3 s 18 are each amended to read
23 as follows:

24 The secretary may (~~((certify))~~) license a person without examination
25 if such person is (~~((licensed or certified))~~) credentialed as an
26 acupuncturist in another jurisdiction if, in the secretary's judgment,
27 the requirements of that jurisdiction are equivalent to or greater than
28 those of Washington state.

29 **Sec. 15.** RCW 18.06.200 and 1985 c 326 s 20 are each amended to
30 read as follows:

31 Nothing in this chapter may be construed to require that individual
32 or group policies or contracts of an insurance carrier, health care
33 service contractor, or health maintenance organization provide benefits
34 or coverage for services and supplies provided by a person (~~((registered~~
35 ~~or certified))~~) licensed under this chapter.

1 Sec. 16. RCW 18.120.020 and 1989 c 300 s 14 are each amended to
2 read as follows:

3 The definitions contained in this section shall apply throughout
4 this chapter unless the context clearly requires otherwise.

5 (1) "Applicant group" includes any health professional group or
6 organization, any individual, or any other interested party which
7 proposes that any health professional group not presently regulated be
8 regulated or which proposes to substantially increase the scope of
9 practice of the profession.

10 (2) "Certificate" and "certification" mean a voluntary process by
11 which a statutory regulatory entity grants recognition to an individual
12 who (a) has met certain prerequisite qualifications specified by that
13 regulatory entity, and (b) may assume or use "certified" in the title
14 or designation to perform prescribed health professional tasks.

15 (3) "Grandfather clause" means a provision in a regulatory statute
16 applicable to practitioners actively engaged in the regulated health
17 profession prior to the effective date of the regulatory statute which
18 exempts the practitioners from meeting the prerequisite qualifications
19 set forth in the regulatory statute to perform prescribed occupational
20 tasks.

21 (4) "Health professions" means and includes the following health
22 and health-related licensed or regulated professions and occupations:
23 ((~~Podiatry~~)) Podiatric medicine and surgery under chapter 18.22 RCW;
24 chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under
25 chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing
26 opticians under chapter 18.34 RCW; hearing aids under chapter 18.35
27 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral
28 directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW;
29 nursing home administration under chapter 18.52 RCW; optometry under
30 chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW;
31 osteopathy and osteopathic medicine and surgery under chapters 18.57
32 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
33 under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under
34 chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical
35 nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW;
36 registered nurses under chapter 18.88 RCW; occupational therapists
37 licensed pursuant to chapter 18.59 RCW; respiratory care practitioners
38 certified under chapter 18.89 RCW; veterinarians and animal technicians
39 under chapter 18.92 RCW; health care assistants under chapter 18.135

1 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists
2 (~~certified~~) licensed under chapter 18.06 RCW; persons registered or
3 certified under chapter 18.19 RCW; dietitians and nutritionists
4 certified by chapter 18.138 RCW; radiologic technicians under chapter
5 18.84 RCW; and nursing assistants registered or certified under chapter
6 18.88A RCW.

7 (5) "Inspection" means the periodic examination of practitioners by
8 a state agency in order to ascertain whether the practitioners'
9 occupation is being carried out in a fashion consistent with the public
10 health, safety, and welfare.

11 (6) "Legislative committees of reference" means the standing
12 legislative committees designated by the respective rules committees of
13 the senate and house of representatives to consider proposed
14 legislation to regulate health professions not previously regulated.

15 (7) "License," "licensing," and "licensure" mean permission to
16 engage in a health profession which would otherwise be unlawful in the
17 state in the absence of the permission. A license is granted to those
18 individuals who meet prerequisite qualifications to perform prescribed
19 health professional tasks and for the use of a particular title.

20 (8) "Professional license" means an individual, nontransferable
21 authorization to carry on a health activity based on qualifications
22 which include: (a) Graduation from an accredited or approved program,
23 and (b) acceptable performance on a qualifying examination or series of
24 examinations.

25 (9) "Practitioner" means an individual who (a) has achieved
26 knowledge and skill by practice, and (b) is actively engaged in a
27 specified health profession.

28 (10) "Public member" means an individual who is not, and never was,
29 a member of the health profession being regulated or the spouse of a
30 member, or an individual who does not have and never has had a material
31 financial interest in either the rendering of the health professional
32 service being regulated or an activity directly related to the
33 profession being regulated.

34 (11) "Registration" means the formal notification which, prior to
35 rendering services, a practitioner shall submit to a state agency
36 setting forth the name and address of the practitioner; the location,
37 nature and operation of the health activity to be practiced; and, if
38 required by the regulatory entity, a description of the service to be
39 provided.

1 (12) "Regulatory entity" means any board, commission, agency,
2 division, or other unit or subunit of state government which regulates
3 one or more professions, occupations, industries, businesses, or other
4 endeavors in this state.

5 (13) "State agency" includes every state office, department, board,
6 commission, regulatory entity, and agency of the state, and, where
7 provided by law, programs and activities involving less than the full
8 responsibility of a state agency.

9 **Sec. 17.** RCW 18.130.040 and 1992 c 128 s 6 are each amended to
10 read as follows:

11 (1) This chapter applies only to the secretary and the boards
12 having jurisdiction in relation to the professions licensed under the
13 chapters specified in this section. This chapter does not apply to any
14 business or profession not licensed under the chapters specified in
15 this section.

16 (2)(a) The secretary has authority under this chapter in relation
17 to the following professions:

- 18 (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 19 (ii) Naturopaths licensed under chapter 18.36A RCW;
- 20 (iii) Midwives licensed under chapter 18.50 RCW;
- 21 (iv) Ocularists licensed under chapter 18.55 RCW;
- 22 (v) Massage operators and businesses licensed under chapter 18.108
23 RCW;
- 24 (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 25 (vii) Acupuncturists (~~((certified))~~) licensed under chapter 18.06
26 RCW;
- 27 (viii) Radiologic technologists certified under chapter 18.84 RCW;
- 28 (ix) Respiratory care practitioners certified under chapter 18.89
29 RCW;
- 30 (x) Persons registered or certified under chapter 18.19 RCW;
- 31 (xi) Persons registered as nursing pool operators;
- 32 (xii) Nursing assistants registered or certified under chapter
33 (~~((18.52B))~~) 18.88A RCW;
- 34 (xiii) Dietitians and nutritionists certified under chapter 18.138
35 RCW;
- 36 (xiv) Sex offender treatment providers certified under chapter
37 18.155 RCW; and

1 (xv) Persons licensed and certified under chapter 18.73 RCW or RCW.
2 18.71.205.

3 (b) The boards having authority under this chapter are as follows:

4 (i) The podiatric medical board as established in chapter 18.22
5 RCW;

6 (ii) The chiropractic disciplinary board as established in chapter
7 18.26 RCW governing licenses issued under chapter 18.25 RCW;

8 (iii) The dental disciplinary board as established in chapter 18.32
9 RCW;

10 (iv) The council on hearing aids as established in chapter 18.35
11 RCW;

12 (v) The board of funeral directors and embalmers as established in
13 chapter 18.39 RCW;

14 (vi) The board of examiners for nursing home administrators as
15 established in chapter 18.52 RCW;

16 (vii) The optometry board as established in chapter 18.54 RCW
17 governing licenses issued under chapter 18.53 RCW;

18 (viii) The board of osteopathic medicine and surgery as established
19 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
20 18.57A RCW;

21 (ix) The medical disciplinary board as established in chapter 18.72
22 RCW governing licenses and registrations issued under chapters 18.71
23 and 18.71A RCW;

24 (x) The board of physical therapy as established in chapter 18.74
25 RCW;

26 (xi) The board of occupational therapy practice as established in
27 chapter 18.59 RCW;

28 (xii) The board of practical nursing as established in chapter
29 18.78 RCW;

30 (xiii) The examining board of psychology and its disciplinary
31 committee as established in chapter 18.83 RCW;

32 (xiv) The board of nursing as established in chapter 18.88 RCW; and

33 (xv) The veterinary board of governors as established in chapter
34 18.92 RCW.

35 (3) In addition to the authority to discipline license holders, the
36 disciplining authority has the authority to grant or deny licenses
37 based on the conditions and criteria established in this chapter and
38 the chapters specified in subsection (2) of this section. However, the
39 board of chiropractic examiners has authority over issuance and denial

1 of licenses provided for in chapter 18.25 RCW, the board of dental
2 examiners has authority over issuance and denial of licenses provided
3 for in RCW 18.32.040, and the board of medical examiners has authority
4 over issuance and denial of licenses and registrations provided for in
5 chapters 18.71 and 18.71A RCW. This chapter also governs any
6 investigation, hearing, or proceeding relating to denial of licensure
7 or issuance of a license conditioned on the applicant's compliance with
8 an order entered pursuant to RCW 18.130.160 by the disciplining
9 authority.

--- END ---